IN THE UNITED STATES PATENT & TRADEMARK OFFICE

In re Application of
BLASCO et al
Serial No. 10/589,876
Filed: March 3, 2005 as PCT international application
For: 5,6-Dialkyl-7-aminotriazolopyrimidines, method for their production, their use for controlling pathogenic fungi, and agents containing said compounds

DECLARATION

I, Egon Haden, Dr. agr., a citizen of the Federal Republic of Germany and residing at Bayernstrasse 55, Ludwigshafen, Germany, hereby declare as follows:

I am fully trained agricultural engineer, having studied agricultural science at the Technical University of Stuttgart - Hohenheim, Germany, from 1975 to 1980;

From 1980 to 1985 I furthered my studies at the Institute of Plant Disease of the University of Hohenheim, and I was awarded my doctor's degree by the said university in 1985;

I joined BASF Aktiengesellschaft (now BASF SE) of 67056 Ludwigshafen, Germany, in 1984, and have since been working in the field of the characterization and screening of fungicidal substances, and am therefore fully conversant with the technical field to which the invention disclosed and claimed in application Serial No. 10/589,876 belongs.

The tests were carried out under my supervision in accordance with the instructions given in the specification of Appln. Ser. No. 10/589,876 or as described below.

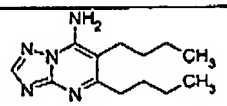
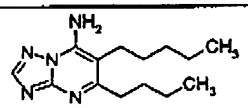
I. Comparative trials for US 10/589,876 vs. EP-A 141 317 (US 4,617,303 = D1)

Glasshouse trials

The spray solutions were prepared as described in the specification.

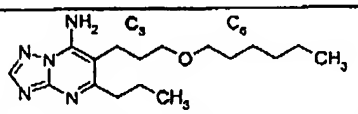
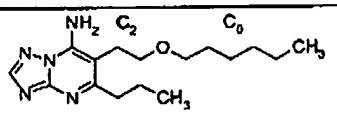
Example 1 - Protective control of brown rust on wheat caused by *Puccinia recondita*

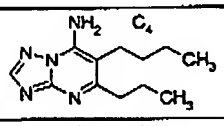
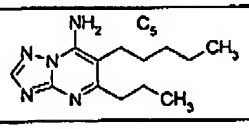
The first two developed leaves of pot-grown wheat seedling of the variety "Kanzler" were sprayed to run-off with an aqueous suspension, containing the concentration of active ingredient mentioned in the table below. The plants were allowed to air-dry. The next day the plants were dusted with spores of *Puccinia recondita*. To ensure the success the artificial inoculation, the plants were transferred to a humid chamber without light and a relative humidity of 95 to 99% and 20 to 22°C for 24 h. Then the trial plants were cultivated for 7 days in a greenhouse chamber at 22-26°C and a relative humidity between 65 and 70%. The extent of fungal attack on the leaves was visually assessed as % diseased leaf area.

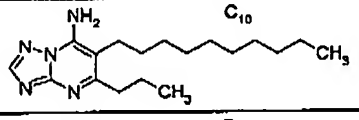
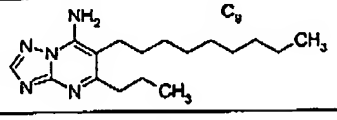
Compound	Structure	Appln. Rate [ppm]	infested area [%]
# 16 (acc. to D1 = US 4,617,303)		63	90
Tab. 2; # A-1 acc. to to current inv. US 10/589,876		63	20
control (untreated)		0	90

Example 2 - Control of late blight on tomatoes caused by *Phytophthora infestans*

Leaves of pot-grown tomato plants were sprayed to run-off with an aqueous suspension, containing the concentration of active ingredient or their mixture mentioned in the table below. The next day, the treated plants were inoculated with an aqueous suspension of zoospores of *Phytophthora infestans*. After inoculation, the trial plants were immediately transferred to a humid chamber. After 6 days at 18 to 20°C and a relative humidity close to 100 % the extent of fungal attack on the leaves was visually assessed as % diseased leaf area.

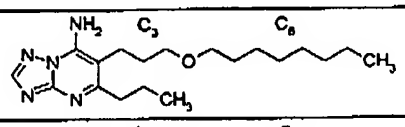
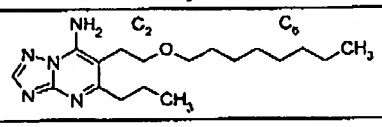
Compound	Structure	Appln. Rate [ppm]	infested area [%]
# 48 (acc. to D1 = US 4,617,303)		250	30
Tab. 1; # A-84 acc. to current inv. US 10/589,876		250	3
control (untreated)		0	90

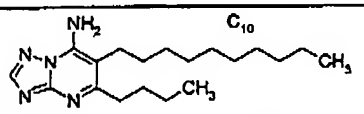
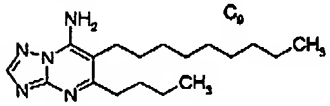
Compound	Structure	Appln. Rate [ppm]	infested area [%]
# 25 (acc. to D1 = US 4,617,303)		250	100
Tab. 1; # A-1 acc. to current inv. US 10/589,876		250	0
control (untreated)		0	100

Compound	Structure	Appln. Rate [ppm]	infested area [%]
# 21 (acc. to D1 = US 4,617,303)		63	100
Tab. 1; # A-47 acc. to current inv. US 10/589,876		63	5
control (untreated)		0	100

Example 3 - Fungicidal control of grape downy mildew caused by *Plasmopara viticola*

Leaves of pot-grown grapes were sprayed to run-off with an aqueous suspension, containing the concentration of active ingredient or their mixture mentioned in the table below. The plants were allowed to air-dry. The next day they were inoculated with an aqueous spore suspension of *Plasmopara viticola* by spraying it at the lower leaf-side. Then the trial plants were immediately transferred for 48 h to a humid chamber with 24°C and a relative humidity close to 100%. For a period of 5 days, cultivation followed in a greenhouse at 20 – 30°C and a relative humidity about 50-80%. To stimulate the outbreak of the disease symptoms, the plants were transferred to a humid chamber again for 16 hours. Then the extent of fungal attack on the lower leaf surface was visually assessed as % diseased leaf area.

Compound	Structure	Appln. Rate [ppm]	infested area [%]
# 42 (acc. to D1 = US 4,617,303)		250	60
Tab. 1; # A-86 acc. to current inv. US 10/589,876		250	20
control (untreated)		0	100

Compound	Structure	Appln. Rate [ppm]	infested area [%]
# 23 (acc. to D1 = US 4,617,303)		63	100
Tab. 2; # A-47 acc. to current inv. US 10/589,876		63	5
control (untreated)		0	100

These unexpected tests results show that in all cases the efficacy of compounds according to the current invention is significantly higher than the efficacy of structurally closely related compounds according to the prior art document US 4,617,303 (Eicken et al.).

I further declare that all statements made herein of my own knowledge are true and that all statements made on information or belief are believed to be true; and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Signed at 67056 Ludwigshafen, Germany, this 12 day of February, 2009.

Signature of Declarant